



W.P.(MD)Nos.29229 to 29235 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**AND**

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD)Nos.29229 to 29235 of 2023

and

W.M.P.(MD)Nos.25273, 25276, 25277, 25279, 25282, 25274 & 25275 of 2023

W.P.(MD)No.29229 of 2023

Kuppusamy

... Petitioner

Vs.

1.The Tiruchirappalli Corporation,  
Rep. by its Commissioner,  
Tiruchirappalli.

2.The Assistant Commissioner,  
Zone-5, Tiruchirappalli Corporation,  
Tiruchirappalli.

...Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the impugned order passed by the 1<sup>st</sup> respondent in Na.Ka.No.3977/2001/F1, dated 02.12.2023 and quash the same.



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For Petitioner : Mr.R.Subramanian  
For Respondents : Mr.R.Baskaran, Senior Counsel,  
For M/s.R.B.Law Associates

### **COMMON ORDER**

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The present Writ Petitions are filed challenging the order dated 02.12.2023 issued by the 1<sup>st</sup> respondent on the ground that the impugned orders are passed without following due process of law.

2.The issue regarding the removal of encroachment has been decided by this Court in W.P.(MD)No.24679 of 2023, dated 12.10.2023 and the relevant paragraphs are extracted hereunder:-

*“4.The Government originally issued G.O.(Ms)No.540, Revenue [LD6(2)] Department, dated 04.12.2014 and formed committees to dispose of the grievances relating to the eviction of encroachment in Government lands. The said Government Order was issued pursuant to the order of the High Court of Madras in W.P.No.26722 of 2013 dated 08.10.2014. Subsequently, the Division Bench of Madras High Court at Madurai Bench in W.P. (MD)No.15917 of 2015, dated 02.09.2015 passed an order. Superseding earlier Government Order issued in G.O.(Ms)No.540,*



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recently, the Government issued G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, 'LD.6(2)' Section, dated 08.02.2022. Monitoring Committees are constituted. The Divisional Monitoring Committee has been constituted appointing Revenue Divisional Officer concerned as Chairperson / Convenor along with members. The District Monitoring Committee has been constituted appointing District Collector concerned as Chairperson along with members. The State Steering Committee is constituted headed by the Chief Secretary to Government along with members from various departments including Police and Highways Department. The Committee will convene once in a month and the issues will be taken up for discussion along with all Secretaries Meeting. The Committees constituted by the Government are expected to act in a meaningful manner, so as to redress the grievance of the aggrieved persons sending representations to remove the encroachments from Highways, water bodies and Government Poramboke lands etc.

5.Writ petitions filed challenging the show cause notices are not entertainable, unless such show cause notices have been issued by an incompetent authority having no jurisdiction or tainted with the allegation of mala fides. Persons, receiving show cause notices regarding removal of encroachments, are at liberty to submit their objections / explanations along with the documents, if any, enabling the competent authority to decide the issues on merits and



*in accordance with law and proceed thereafter.*

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*6.If any person is aggrieved by the final order passed under the relevant statute, he may prefer an appeal before Appellate Authority under the Act. The appeal remedy contemplated under the enactment, at no circumstances, be undermined. Such appeal remedy is contemplated by the legislators in order to verify the correctness of the orders passed by the original authority. Thus, the Rule is to exhaust the alternate appeal remedy before approaching the Court of law and dispensing with the appeal remedy / statutory remedy is an exception. By entertaining Writ Petitions before exhausting the alternative appeal remedy / statutory remedy, the right of appeal of the aggrieved person is denied, more so, the rights of the other parties is also prejudiced. Thus, the importance of exhausting the alternative appeal remedy, at no circumstances, be neutralized or compromised. Even in respect of the grounds relating to violation of principles of natural justice, the statutory authorities are empowered to adjudicate such legal grounds, since they are exercising quasi-judicial powers under the Act. Thus, on receipt of the show cause notice under the relevant Act relating to removal of encroachments in Government lands and water bodies, the person, who has received the same, must be relegated to approach the authority concerned and submit his explanation / defence along with the documents, if any.*



*7. Earth provides everything for human life, but not to satisfy the greed. Greedy men are encroaching upon the Government lands, water bodies and Highways lands, thereby causing infringement of the basic rights of other fellow citizens, who are all entitled to use public lands. In such circumstances, it is the constitutional duty of the State to ensure that public properties, water bodies and Government Poramboke lands are protected for the benefit of people at large and to provide infrastructural facilities to the public in general. In the event of large scale encroachments, it will result in an anomalous situation, wherein the greedy men will take undue advantage and by creating bogus and fraudulent documents, claim title over the Government properties and secure patta.*

*8. Few greedy revenue authorities are granting patta by indulging in corrupt practices and such pattas are utilized for the purpose of claiming title over the Government properties. Through Schematic and systematic way of fraudulent documents are created by the encroachers for the purpose of grabbing larger extent of Government lands across the State of Tamil Nadu. Due to sky rocketing of the market value of the lands in recent years, greedy men are tempted to encroach upon the Government lands with the collusion of the officials of the revenue and other Government departments. The officials from the revenue departments, who have knowledge about the Government lands are paving way for*

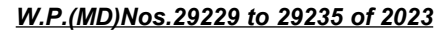


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*encroachments and by connivance granting patta to such encroachers by manipulating revenue records. All such activities are to be thwarted and the Government properties are to be protected for the benefit of the people at large and it is the duty mandated on the State.*

*9.The Committees constituted in G.O.(Ms).No.64, have to conduct roving enquiry for the purpose of identifying encroachments in their respective divisions, districts and at the state level and initiate all appropriate actions to evict the encroachers and protect the Government lands, water bodies etc.*

*10.Grabbing Government land is an offence. Criminal prosecutions are to be initiated against the encroachers. Frequent Writ Petitions are filed and in some cases, even after the removal of encroachments, again same public properties are encroached upon by the persons and such re-encroachment, if permitted, would result in further complications. Therefore, once the encroachment is identified by conducting survey and show cause notice has been issued to the encroachers, asking them to vacate the land or premises, final order to be passed, which is to be executed without causing undue delay. In addition, the authorities competent are bound to institute criminal prosecution against the offenders. Grabbing Government land is a theft. Therefore, it is an offence not only under Indian Penal Code but under other statutes. Serious*



2.The respective Divisional Monitoring Committees,  
District Monitoring Committees, State Steering Committee, on



*receipt of any complaint or information from any person regarding encroachment of Government land, water bodies etc., are directed to initiate all appropriate actions to remove the encroachments within a period of twelve weeks from the date of receipt of the complaints / representations / informations and register criminal complaints, wherever required;*

*3.The representations submitted to any Government official / authority in their individual designation or otherwise are directed to be forwarded by such Government official / authority to the Divisional Monitoring Committee, District Monitoring Committee or State Steering Committee as the case may be and the Committee concerned in turn, on receipt of any such informations / representations / complaints from any other authority of any department, are directed to look into the issues for initiation of further actions to evict the encroachers by following the procedures as contemplated under the Act;*

*4.The representations / complaints / informations cannot be rejected merely on the ground that it has been addressed to a wrong authority or incompetent authority. All such authorities are directed to forward the complaints to the competent authority ie., Divisional Monitoring Committee, District Monitoring Committee and State Steering Committee for the purpose of initiation of actions.*

*5.The State Steering Committee as per the Government Order will convene once in a month without any lapse and issues*





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*actions to be initiated by the competent / appropriate authority under the relevant provisions of the Acts and rules.*

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*9.In the event of negligence, lapses or dereliction of duty on the part of the competent authority under the statutes or any department in removing the encroachments and to protect the Government properties, then the Divisional Monitoring Committees / District Monitoring Committees / State Steering Committee are directed to recommend for initiation of appropriate disciplinary action against the concerned authorities, who have committed such misconduct under the Service Rules.*

*10.In the event of failure to initiate action to remove encroachments within a period of twelve (12) weeks on the part of the authorities / committees with reference to the Government Order issued in G.O.Ms.No.64, thereafter, the aggrieved person is at liberty to approach the High Court for appropriate relief.””*

3.In terms of the order passed in the above Writ Petition, we are not inclined to accept the contentions raised by the writ petitioners. Mere pendency of the suit or interim injunction granted would not be a bar for the public authorities to conduct survey, identify the encroachments and remove the same by following the procedures as contemplated under the relevant statutes and Act.



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4. With the above observations, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

**(S.M.S., J.) & (V.L.N., J.)**

**12.12.2023**

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

*Yuva*

To

1. The Commissioner,  
Tiruchirappalli Corporation,  
Tiruchirappalli.
2. The Assistant Commissioner,  
Zone-5, Tiruchirappalli Corporation,  
Tiruchirappalli.



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